

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

	)	Misc. No. 08-mc-442 (TFH)
)	
IN RE:	)	Civil Action Nos.
)	
GUANTANAMO BAY	)	02-cv-0828, 04-cv-1136, 04-cv-1164, 04-cv-1194,
DETAINEE LITIGATION	)	04-cv-1254, 04-cv-1937, 04-cv-2022, 04-cv-2215,
	)	05-cv-0023, 05-cv-0247, 05-cv-0270, 05-cv-0280,
	)	05-cv-0329, 05-cv-0359, 05-cv-0392, 05-cv-0492,
	)	05-cv-0520, 05-cv-0526, 05-cv-0569, 05-cv-0634,
	)	05-cv-0748, 05-cv-0764, 05-cv-0877, 05-cv-0883,
	)	05-cv-0889, 05-cv-0892, 05-cv-0993, 05-cv-0994,
	)	05-cv-0999, 05-cv-1048, 05-cv-1124, 05-cv-1189,
	)	05-cv-1220, 05-cv-1244, 05-cv-1353, 05-cv-1429,
	)	05-cv-1457, 05-cv-1490, 05-cv-1497, 05-cv-1504,
	)	05-cv-1555, 05-cv-1592, 05-cv-1601, 05-cv-1607,
	)	05-cv-1623, 05-cv-1638, 05-cv-1645, 05-cv-1646,
	)	05-cv-1971, 05-cv-1983, 05-cv-2088, 05-cv-2104,
		05-cv-2185, 05-cv-2186, 05-cv-2199, 05-cv-2249,
		05-cv-2349, 05-cv-2367, 05-cv-2371, 05-cv-2379,
		05-cv-2380, 05-cv-2384, 05-cv-2385, 05-cv-2386,
		05-cv-2387, 05-cv-2479, 06-cv-1668, 06-cv-1684,
		06-cv-1690, 06-cv-1761, 06-cv-1765, 06-cv-1766,
		06-cv-1767, 07-cv-1710, 07-cv-2337, 07-cv-2338,
		08-cv-1101, 08-cv-1207, 08-cv-1224, 08-cv-1228,
		08-cv-1233, 08-cv-1235, 08-cv-1237, 08-cv-1238,
		08-cv-1360, 08-cv-1440, 08-cv-1789, 08-cv-1805,
		08-cv-1828, 08-cv-1923, 08-cv-2019, 08-cv-2083,
		09-cv-0031, 09-cv-0745, 09-cv-0873, 09-cv-0904,
		09-cv-1332, 09-cv-1385, 09-cv-2368, 10-cv-0407

[Revised Proposed] ORDER

Upon consideration of Respondents' Motion to Amend and for Clarification of the Court's January 14, 2010 Order Regarding Public Returns — as amended by Respondents' Amended Motion for Extension of Time Regarding Proposed Public Returns — and the briefs submitted by Respondents, Press Intervenors, and Petitioners; in recognition of the Court's

proper role in determining what unclassified information should be deemed “protected”; and finding that Respondents have shown good cause for an extension of time to comply with the Court’s January 14, 2010 Order, the Court

ORDERS that the motion is **GRANTED**. The Court further

ORDERS that Respondents shall have until July 23, 2010 to complete the reprocessing of the proposed public factual returns required by the Court’s January 14, 2010 Order, and to serve on Petitioners’ counsel each proposed public return in which Respondents seek to deem information “protected.” In each return so served on Petitioners’ counsel, Respondents must highlight in color the exact words or lines that Respondents seek to be deemed “protected.” Petitioners’ counsel shall treat such disclosed information as protected unless and until the Court rules that the information should not be designated as protected. The Court further

ORDERS that information contained in the returns that falls within any of the following six categories may properly be designated as “protected” pursuant to the Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba (Sept. 11, 2008, Dkt. No. 409) (“Protective Order”):

- A. Names and/or other information that would tend to identify certain U.S. government employees, FBI Joint Terrorism Task Force members, or contractors — specifically, law enforcement officers, agents, translators, intelligence analysts, or interrogators, all below the Senior Executive Service or General Officer level — or the family members of detainees;
- B. Information that would reveal the existence, focus, or scope of law enforcement or intelligence operations, including the sources, witnesses, or methods used and the identity of persons of interest;

- C. Information indicating the names or locations, including geo-coordinates, of locations of interest as they pertain to counter-terrorism intelligence gathering, law enforcement, or military operations, where the Government has not previously acknowledged publically its knowledge of those names or locations;
- D. Information that would reveal the Government's knowledge of telephone numbers, websites, passwords, passcodes, and e-mail addresses used by known or suspected terrorists, or discussions of the manner in which known or suspected terrorists use these methods for communications with one another;
- E. Information regarding the use, effectiveness, or details regarding the implementation of certain interrogation approaches and techniques approved by Executive Order 13491 and described in the Army Field Manual No. 2-22.3.
- F. Certain administrative data, operational "nicknames," code words, dates of acquisition, including dates of interrogations, and FBI case names and file numbers, contained in the intelligence documents included in the factual returns.

The Court further

ORDERS that upon service of a proposed public return on a Petitioner's counsel, the parties shall meet and confer regarding Respondents' proposed designations, pursuant to paragraph 34 of the Protective Order and Local Rule of Civil Procedure 7(m). The Court further

ORDERS that if agreement is reached regarding a given proposed public return, Respondents shall file the highlighted return under seal with the appropriate Merits Judge together with a consent motion to designate the highlighted portions of the return as protected.

The Court further

ORDERS that if an agreement cannot be reached, Respondents must file the highlighted return under seal with the appropriate Merits Judge together with a motion to deem the disputed designations in the return as protected. As to the disputed designations Respondents must either

(i) explain why they fall within one of the six approved categories of protected information set forth above, or (ii) to the extent disputed designations do not fall within one of the above categories, provide a rationale for protecting the designated information.

SO ORDERED.

Dated: _____

THOMAS F. HOGAN
United States District Judge